

BY Robert C. Puente

H.B. 3042

A BILL TO BE ENTITLED

AN ACT

1 relating to the administration, powers, duties and operations of the Edwards Aquifer Authority
2 and the management of the Edwards Aquifer; and amending Chapter 626, Acts of the 73rd
3 Legislature, Regular Session, 1993.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 1.08, Subsection (c), Article 626, Acts of the 73rd Legislature,
6 regular session, 1993 is amended to read as follows:

7 (c) The authority and local governments with pollution control powers provided under
8 Subchapters D and E, Chapter 26, Water Code, in order to prevent pollution and enforce water
9 quality standards in the counties included within the authority's boundaries and within a buffer
10 zone that includes all of the area less than five miles outside of those counties, shall apply
11 pollution control regulations equally and uniformly throughout the area within the counties and
12 the buffer zone. The buffer zone does not include the territory within a water management
13 district created under Chapter 654, Acts of the 71st Legislature, Regular Session, 1989. Nothing
14 in this article is intended to limit or reduce the authority granted to a local government to enact
15 more restrictive measures regarding pollution control within its territorial and extra-territorial
16 jurisdiction or limit or reduce any other authority granted by the Local Government Code of the
17 state.

18 SECTION 2. Section 1.12, Subsection (a) and (b), Chapter 626, Acts of the 73rd
19 Legislature, 1993, are amended to read as follows:

20 (a) The board is subject to review under Chapter 325, Government Code (Texas Sunset
21 Act), but may not be abolished under that Act. The review shall be conducted as if the board
22 were scheduled to be abolished September 1, 1999 [2005].

1 (b) Unless members of the board are continued in office after the review, their
2 membership expires September 1, 1999 [2005].

3 SECTION 3. Section 1.14, Article 1, Chapter 626, Acts of the 73rd Legislature, Regular
4 Session, 1993, amending subsection (h) and adding a new subsection (i) to read as follows:

5 (h) To accomplish the purposes of this article, by June 1, 1996 [~~June 1, 1994~~], the
6 authority, through a program, shall implement and enforce water management practices,
7 procedures and methods to ensure that, not later than December 31, 2012, the continuous
8 minimum springflows of the Comal Springs and the San Marcos Springs are maintained to
9 protect endangered and threatened species to the extent required by federal law. The authority
10 from time to time as appropriate may revise the practices, procedures, and methods. To meet
11 this requirement the authority shall require:

12 (1) phased reductions in the amount of water that may be used or withdrawn by
13 existing users or categories of other users; or

14 (2) implementation of alternative management practices, procedures and methods.

15 (i) For purposes of this Act, the term "permitted amounts" shall mean the total amount
16 of withdrawals made pursuant to regular permits issued under Section 1.16 or Section 1.18 of this
17 Act.

18 SECTION 4. Section 1.16, Subsection (b), Article 1, Chapter 626, Acts of the 73rd
19 Legislature, Regular Session, is amended to read as follows:

20 (b) An existing user's declaration of historical use must be filed on or before March 1,
21 1996 [~~March 1, 1994~~], on a form prescribed by the board. An applicant for a permit must timely
22 pay all application fees required by the board. An owner of a well used for irrigation must
23 include additional documentation of the number of acres irrigated during the historical period
24 provided by Subsection (a) of this section.

25 SECTION 5. Section 1.17, Subsection (a), Article 1, Chapter 626, Acts of the 73rd
26 Legislature, Regular Session, is amended to read as follows:

27 (a) A person, who, on the effective date of this article, owns a producing well that

1 withdraws water from the aquifer may continue to withdraw and beneficially use after without
2 waste until final action on permits by the authority, if:

3 (1) the well is in compliance with all statutes and rules relating to well
4 construction, approval, location, spacing, and operation; and (2) March 1, 1996 [~~by March 1,~~
5 ~~1994~~], that person files a declaration of historical use on a form as required by the authority.

6 SECTION 6. Section 1.18, Subsection (b), Article 1, Chapter 626, Acts of the 73rd
7 Legislature, Regular Session, is amended to read as follows:

8 (b) The authority may not consider or take action on an application relating to a proposed
9 or existing well of which there is no evidence of actual beneficial use before June 1, 1993, until
10 a final determination has been made on all initial regular permit applications submitted on or
11 before the initial application of March 1, 1996 [~~March 1, 1994~~].

12 SECTION 7. Section 1.25, Subsection (a), Article 1, Chapter 626, Acts of the 73rd
13 Legislature, Regular Session, is amended to read as follows:

14 (a) Consistent with Section 1.14 of this article, the authority shall develop, by September
15 1, 1997 [~~September 1, 1995~~], and implement a comprehensive water management plan that
16 includes conservation, future supply, and demand management plans. The authority may not
17 delegate the development of the plan under Section 1.42 of this article.

18 SECTION 8. Section 1.26, Article 1, Chapter 626, Acts of the 73rd Legislature, Regular
19 Session, 1993, is amended to read as follows:

20 The authority shall prepare and coordinate implementation of a plan for critical period
21 management on or before September 1, 1997 [~~1995~~]. The mechanisms must:

22 (1) distinguish between discretionary use and nondiscretionary use to the maximum
23 extent feasible;

24 (2) require reductions of all discretionary use to the maximum extent feasible;

25 (3) require utility pricing, to the maximum extent feasible, to limit discretionary use by
26 the customers of water utilities;

27 (4) provide for exemptions for nondiscretionary use for United States Department of

1 Defense missions and other uses for which the authority finds exemption appropriate; and

2 (5) [(4)] require reduction of nondiscretionary use other than exempt use by permitted
3 or contractual users, to the extent further reductions are necessary, in the reverse order of the
4 following water use preferences;

5 (A) municipal, domestic, and livestock;

6 (B) industrial and crop irrigation;

7 (C) residential landscape irrigation;

8 (D) recreational and pleasure; and

9 (E) other uses that are authorized by law.

10 SECTION 9. Section 1.27, Article 1, Chapter 626, Acts of the 73rd Legislature, Regular
11 Session, 1993 is amended to read as follows:

12 SECTION 1.27. EVALUATION OF AUGMENTATION METHODS. (a) The authority
13 shall collect information on and evaluate the following augmentation methods:

14 (1) pumping aquifer water from various locations in the Edwards Aquifer into a
15 streambed at, below, above, adjacent to, or in the area of the springs;

16 (2) pumping aquifer water from various locations in the Edwards Aquifer and injecting
17 or percolating the water back into the aquifer in locations near or at the springs, or in distant
18 flowpaths that result in waters issuing from the springs;

19 (3) recirculating the waters of the San Marcos and Comal rivers, whether derived from
20 augmented flow or otherwise, from points below, above, adjacent to, or in the area of the springs;

21 (4) providing enhanced recharge to the Edwards Aquifer by percolation or injection from
22 diversions of water from streams above or crossing the aquifer, including the Guadalupe River,
23 Blanco River, Cibolo Creek, Medina River, San Antonio River, Frio River, Dry Frio River,
24 Nueces River, or tributaries of those streams, and delivering water from those sources to a
25 streambed at, below, above, adjacent to, or in the area of the springs;

26 (5) providing enhanced recharge to the Edwards Aquifer by percolation or injection from
27 new or additional diversions of water from streams outside of the aquifer area, using both

1 intermittent and firm waters, and delivering water from those sources to a streambed at, below,
2 above, adjacent to, or in the area of the springs;

3 (6) providing enhanced recharge to the Edwards Aquifer at various sites, including
4 Medina Lake, Upper Cibolo Creek, Hueco Springs, nearby recharge sites for San Marcos Springs,
5 nearby recharge sites for Comal Springs, and areas of the Edwards Aquifer or other aquifers
6 where injection wells or natural percolation into an aquifer may be considered;

7 (7) providing for elevation of the existing dams constructed in the areas below the
8 springs' discharge and installing flow control valves to regulate spring discharge during periods
9 of high aquifer levels to make more water available for release in time of drought;

10 (8) providing enhanced recharge by percolation or injection to the Edwards Aquifer from
11 water stored in other aquifers, or providing water to the streambeds in the area of the springs
12 from waters stored in other aquifers;

13 (9) adding recharge to the Edwards Aquifer from existing reservoirs lying above, over,
14 or near the Edwards Aquifer, including Canyon Lake and Medina Lake;

15 (10) adding recharge by injection or percolation at places in or above the Edwards
16 Aquifer, whether in the Edwards Aquifer itself or in other aquifers that flow waters into the
17 Edwards Aquifer, where the residency time of waters is sufficiently long to give benefits to
18 aquifer levels and spring flow over a long period of time;

19 (11) other augmentation methods that may be suggested by a consultant hired by the
20 authority; and

21 (12) any combination of the listed augmentation methods.

22 (b) The evaluations required by Subsection (a) of this section shall include for each
23 augmentation method considered a description or estimate of:

24 (1) engineering requirements;

25 (2) economic costs;

26 (3) environmental consequences; and

27 (4) reliability of each method in providing for the maintenance of numbers,

1 reproductive capacity, and distribution range of endangered species under all conditions, including
2 a repeat of the drought of record.

3 (c) The authority, in seeking information on augmentation methods, may consult with and
4 consider augmentation methods designed to maintain endangered species suggested by:

5 (1) government agencies, including:

6 (A) the Texas Water Development Board;

7 (B) the Edwards Underground Water District;

8 (C) the Texas Natural Resource Conservation Commission;

9 (D) the Parks and Wildlife Department;

10 (E) the United States Geological Survey;

11 (F) the United States Fish and Wildlife Service;

12 (G) the San Antonio Water System;

13 (H) the City of San Antonio;

14 (I) the San Antonio River Authority

15 (J) the Guadalupe-Blanco River Authority; and

16 (K) the Nueces River Authority; and

17 (2) private organizations and individuals, including environmental organizations
18 and members of the public who participate in public hearings held under Subsection (d) of this
19 section.

20 (d) In collecting information on augmentation methods as required by this section, the
21 Authority shall hold at least one public hearing in each county within the Authority.

22 (e) For purposes of this Section, the term "Springs" shall mean the San Marcos Springs
23 and the Comal Springs.

24 SECTION 1.271. CONSTRUCTION OF DEMONSTRATION AUGMENTATION
25 PROJECTS. (a) The authority may construct augmentation projects to demonstrate the
26 augmentation methods the authority determines to be the most reliable and feasible for
27 maintaining the numbers, reproductive capacity, and distribution range of endangered species.

1
2 SECTION 1.272. PREPARATION OF LONG-TERM PLAN. (a) The authority shall
3 prepare a plan or plans for use of augmentation and recharge projects to maximize the long-term
4 sustainable yield of the Edwards Aquifer.

5 (b) A plan prepared under this section shall:

6 (1) describe or estimate:

7 (A) economic costs of implementing the plan;

8 (B) engineering requirements;

9 (C) environmental impacts; and

10 (D) reliability of the plan for maintaining endangered species under all
11 conditions, including a repeat of the drought of record; and

12 (2) compare the plan with other proposed plans for providing water to maintain
13 endangered species by means other than augmentation.

14 (c) Comparisons prepared under Subsection (b)(2) of this section:

15 (1) shall include the descriptions or estimates required by Subsection (b)(1) of
16 this section;

17 (2) shall include any plan proposed by a state or federal agency or court; and

18 (d) Not later than August 31, 1999, the authority shall provide copies of a completed
19 plan to the governor, the lieutenant governor the speaker of the house of representatives, and the
20 Texas Water Development Board. The authority shall make copies of the plan available on
21 request to state and federal agencies and courts, to members of congress, and to the public.

22 ~~[SECTION 1.27. RESEARCH. (a) The authority shall complete research on the~~
23 ~~technological feasibility of springflow enhancement and yield enhancement that, immediately~~
24 ~~before September 1, 1993, is being conducted by the Edwards Underground Water Distret.~~

25 ~~(b) The authority may conduct research to:~~

26 ~~(1) augment the springflow, enhance the recharge, and enhance the yield of the~~
27 ~~aquifer;~~

1 ~~(2) monitor and protect water quality;~~
2 ~~(3) manage water resources, including water conservation, water use and reuse,~~
3 ~~and drought management measures; and~~
4 ~~(4) develop alternative supplies of water for users.~~

5 ~~(c) The authority may schedule demonstration projects for purposes of Subsection (b) (1)~~
6 ~~of this section.~~

7 ~~(d) The authority may contract with other persons to conduct research.~~

8 SECTION 10. Section 1.33, Article 1, Chapter 626, Acts of the 73rd Legislature, Regular
9 Session, 1993 is amended to read as follows:

10 WELL PERMITTING AND METERING EXEMPTION. (a) A well that produces
11 25,000 gallons of water a day or less for domestic or livestock use is exempt from permitting and
12 metering requirements.

13 (b) Exempt wells must register with the authority or with an underground water
14 conservation district in which the well is located.

15 (c) A well within or serving a subdivision requiring platting does not qualify for an
16 exempt use.

17 SECTION 11. Section 1.41, Subsection (d), Article 1, Chapter 626, Acts of the 73rd
18 Legislature, Regular Session, is amended to read as follows:

19 (d) On the earlier of thirty (30) days after the effective date of this article or September
20 1, 1995, [September 1, 1993] all unobligated and unexpended funds of the Edwards Underground
21 Water District shall be transferred to the authority.

22 SECTION 12. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session,
23 1993 is amended by adding Section 1.46 to read as follows:

24 SECTION 1.46. REFUGIA. (a) The authority shall develop and maintain a plan for
25 removing to refugia endangered species from the Comal or San Marcos springs in the event of
26 an emergency presented by low water quantity or quality that may threaten the survival of the
27 species. The refugia must be designed to protect members of the species threatened by the

1 emergency until the members of their offspring may be reintroduced to the Comal or San Marcos
2 springs ecosystem.

3 (b) The plan must be designed to protect at least the following species:

4 (1) San Marcos Gambusia (Gambusia georgei);

5 (2) Fountain Darter (Etheostoma fonticola)

6 (3) San Marcos Salamander (Eurycea nana);

7 (4) Texas Wild-rice (Zizania texana); and

8 (5) Texas Blind Salamander (Typhlomolge rathbuni).

9 (c) In developing the plan, the authority shall:

10 (1) consider the potential effects long-term drying of the ecosystem may have on
11 plans for reintroduction of members of the species to the ecosystem; and

12 (2) consult the United States Fish and Wildlife Services for guidance.

13 SECTION 13. Section 3.03, Article 3, Chapter 626, Acts of the 73rd Legislature, Regular
14 Session, is deleted in its entirety. [~~SECTION 3.03. SUNSET COMMISSION REVIEW OF~~
15 ~~GUADALUPE-BLANCO RIVER AUTHORITY. (a) The board of directors of the Guadalupe-~~
16 ~~Blanco River Authority is subject to review under Chapter 325, Government Code (Texas Sunset~~
17 ~~Act), but may not be abolished under that Act. The review shall be conducted as if the board~~
18 ~~of directors were scheduled to be abolished September 1, 1995.~~

19 ~~(b) Unless after the review the legislature continues the members of the board of~~
20 ~~directors in office, the terms of the board members expire September 1, 1995.~~

21 ~~(c) If the terms of the board of directors expire under Subsection (b) of this~~
22 ~~section, a new board of directors shall be appointed and confirmed as provided by Chapter 75,~~
23 ~~Acts of the 73rd Legislature, 1st Called Session, 1993, with three members appointed to terms~~
24 ~~expiring February 1, 1997, three to terms expiring February 1, 1999, and three to terms expiring~~
25 ~~February 1, 2001. A member whose term expires under Subsection (b) of this section is not~~
26 ~~eligible for reappointment under this subsection.]~~

27 SECTION 14. Section 3.04, Article 3, Chapter 626, Acts of the 73rd Legislature, Regular

1 Session, is amended to read as follows:

2 Section 3.03 [~~Section 3.04~~] COOPERATION. All state and local governmental entities
3 are hereby directed to cooperate with the authority to the maximum extent practicable so that the
4 authority can best be able to accomplish the purposes set forth under Article 1. The authority
5 shall, on or after January 1, 1997, [~~January 1, 1995~~] submit a report to the governor, lieutenant
6 governor, and speaker of the house of representatives evaluating the extent to which other entities
7 have cooperated with and assisted the authority.

8 SECTION 15. Section 4.02, Article 4, Chapter 626, Acts of the 73rd Legislature, Regular
9 Session, is amended to read as follows:

10 EFFECTIVE DATES. This Act takes effect upon passage, [~~September 1, 1993~~] except
11 Section 1.35 of Article 1 takes effect March 1, 1996, and except Article 2 which was effective
12 September 1, 1993.

13 SECTION 16. The importance of this legislation and the crowded condition of the
14 calendars in both house create an emergency and an imperative public necessity that the
15 constitutional rule requiring bills to be read on three several days in each house be suspended.

LETTER OF TRANSMITTAL
HOUSE OF REPRESENTATIVES
STATE OF TEXAS


TO: The Honorable George W. Bush
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Natural Resource Conservation Commission copies of House Bill No. 3042, a bill relating to a conservation and reclamation district, and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Natural Resource Conservation Commission, under Section 59(d), Article XVI, Constitution of the State of Texas.

APR 5 - 1995

Date transmitted to
Governor's Office


Cynthia Gerhardt, Chief Clerk
House of Representatives

TO: Texas Natural Resource Conservation Commission

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of House Bill No. _____, a bill relating to a conservation and reclamation district, and a copy of the notice of intention to introduce the bill.

Date transmitted to
Texas Natural Resource Conservation Commission

George W. Bush
Governor

TO: The Honorable James E. "Pete" Laney
Speaker of the House

The Honorable Bob Bullock
President of the Senate

The Honorable George W. Bush
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Natural Resource Conservation Commission on House Bill No. _____, in compliance with Section 59(d), article XVI, Constitution of the State of Texas.

Dan Pearson
Executive Director

John Hall, *Chairman*
Pam Reed, *Commissioner*
Peggy Garner, *Commissioner*
Dan Pearson, *Executive Director*



TEXAS NATURAL RESOURCE CONSERVATION COMMISSION

Protecting Texas by Reducing and Preventing Pollution

April 25, 1995

The Honorable James E. (Pete) Laney
Texas House of Representatives
P. O. Box 2910
Austin, Texas 78769

Re: Responsibility of the Texas Natural Resource Conservation Commission pursuant to Article XVI, Section 59(d), Texas Constitution.

H.B. 3042 by Puente

Relating to the administration, powers, duties, and operations of the Edwards Aquifer Authority and the management of the Edwards Aquifer; and amending Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

Dear Mr. Speaker:

The following comments are provided pursuant to the Constitutional requirements referenced above. We recommend that these comments be considered in the evaluation of the proposed legislation.

House Bill 3042 amends certain due-dates in regard to the Edwards Aquifer Authority's administration, powers, and duties; provides for critical period exemptions for military use of water; and requires studies of spring augmentation. The Bill would increase the specific authorities of the Edwards Aquifer Authority by providing the authority to construct augmentation projects, requiring the preparation of augmentation plans, and requiring the development of an endangered species rescue and preservation plan and refuge. In addition, the Bill would repeal the Sunset Review provision directed at the Guadalupe Blanco River Authority. The Act would take effect upon passage.

Respectfully,

A handwritten signature in dark ink, appearing to read "Dean Robbins", is written over a horizontal line.

Dean Robbins, P.E.
Director, Water Utilities Division

cc: Representative David Counts, Chairman, House Natural Resources Committee
Representative Robert R. Puente

H.B. No. 3042

By McB + AMF

**A BILL TO BE ENTITLED
AN ACT**

relating to the administration, powers, duties and operations of the Edwards Aquifer Authority and the management of the Edwards Aquifer; and amending Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

3/10/95

Filed with the Chief Clerk

MAR 16 1995

Read first time and referred to Committee on NATURAL RESOURCES

Reported favorably (as amended)
(as substituted)

Sent to Committee on (Calendars)
(Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of yeas, nays, present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of yeas, nays, present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of yeas, nays, present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(yeas, nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(yeas, nays)

Senate and Constitutional 3 Day Rules suspended by a vote of yeas, nays

Read third time, _____, and passed by (a viva voce vote)
(yeas, nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)